IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5105 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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DHANJIBHAI JIVABHAI PATEL & 1 - Petitioner(s)
Versus
AMRATBEN JOITABHAI SOMABHAI PATEL D/O. GIRDHARBHAI B PATEL - Respondent(s)

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Appearance :
MR AM PAREKH for Petitioner(s) : 1 - 2.
RULE SERVED for Respondent(s) : 1,
MR JV JAPEE for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 14/12/2006

ORAL JUDGMENT

1. By instant petition under Article 227 of the Constitution of India, petitioners / original plaintiffs seek to challenge the order dated 11.3.2005 rendered in CAFO no. 29 of 2004 by the learned Joint District Judge, 8th Fast Track Court, Sabarkantha at Himatnagar, by which the appeal filed by the respondent / original defendant has been allowed and thereby order dated 27.7.2004 recorded below application exh 5 in Regular Civil Suit no. 76 of 2003 by the learned Civil Judge (JD), Prantij, granting injunction in favour of the petitioners / original plaintiffs has been quashed and set

aside. The learned Civil Judge (JD) has passed interim injunction in favour of the petitioners against the respondent restraining the respondent from interfering with the possession of the petitioners with respect to the agricultural land bearing Revenue Survey No. 423, 314A, 297/9, 262/3, 262/4 of village Moje Vadarad, Taluka Prantij till disposal of the suit.

2. This Court vide order dated 22.3.2005 issued notice and directed both the parties to maintain status quo, and thereafter vide order dated 29.4.2005 Rule has been issued. This petition is listed for final hearing today before this Court.

3. Having heard Mr. A.M.Parekh, learned advocate of the petitioners and Mr. J.V.Japee, learned advocate for the respondent and a perusal of both the orders, it is seen that the interim injunction is operating in favour of the petitioners from the very beginning, i.e. from the date of filing of the suit, till issuance of notice by this Court, therefore, according to this Court, if both the parties are directed to maintain status quo, with regard to the suit property, till final hearing of Regular Civil Suit no. 76 of 2003, the same would meet the ends of justice.

4. For the foregoing reasons, the petition succeeds in part, and, accordingly, it is partly allowed, with no order as to costs. Order dated 22.3.2005

passed by this Court directing both the parties to maintain the status quo with regard to the suit property, shall continue till disposal of Regular Civil Suit no. 76 of 2003.

5. Needless to mention that no observation made by the trial Court, by the first appellate Court or the order passed by this Court, directing both the parties to maintain status quo, shall be construed as an expression of opinion on the merits of the case as the findings recorded at interlocutory stage are tentative in nature. The learned trial Judge shall decide the Regular Civil Suit strictly in accordance with law uninfluenced by any order passed by the learned trial Court, by the first appellate Court or by this Court. The learned trial Judge shall expedite the hearing of the suit. It is expected of both the parties to cooperate with the learned trial Judge in expeditious disposal of the suit.

(A.M.Kapadia,J)

Jayanti*